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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/737,320 | 12/16/2003 | James M. Minor | 10030209-1 | 5945 |
| 22878 | 7590 | 05/06/2005 | EXAMINER | |
| AGILENT TECHNOLOGIES, INC. INTELLECTUAL PROPERTY ADMINISTRATION, LEGAL DEPT. P.O. BOX 7599 M/S DL429 LOVELAND, CO 80537-0599 | | | BUI, BRYAN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2863 | |

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

/ ~~A~~ ~~EF~~

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|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/737,320 | Applicant(s) MINOR, JAMES M. | |
| | Examiner Bryan Bui | Art Unit 2863 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-19, 24-30 and 34-37 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7-9, 20, 21, 31 and 32 is/are rejected.
- 7) ☒ Claim(s) 3-6, 22, 23 and 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>Dec1603</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed on 12/16/3003 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because there is undated on the reference to Yuan, Yang C., "Multiple Imputation for Missing Data: Concepts and New Development", SAS Institute Inc., Rockville, MD". It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-2, 7-9, 20-21, and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minor (US 6188969).

With respect to claims 1, 20, 31, Minor teaches the features of the claims includes correlating measurements of the same group of properties (analyte) taken by

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different platforms (different methods of performing/different techniques of performing/different ways) (see figure 1); representing measurement values of each platform as a vector, respectively, wherein a position of each measurement value in a vector corresponds to the same position in all other vector and measured the same property (figure 1, column 6, lines 13-63, column 15, lines 1-20); calculating a virtual platform with corresponding value positions containing ensemble values representative of the measurement values in all platform vectors at the corresponding positions (column 11, lines 1-22 and column 15, line 5 to column 16, line 47); ordering and scaling the ensemble values in the virtual platform (column 11, line 63 to column 12, 18; column 22, lines 1-13). The reference does not mention about term "platforms", "virtual platform". However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to realize these language are commonly read in lines of the methods/ performances/techniques/ways as specified in the Minor's reference (figures 1 and 5-6), and further discloses in the background of the present application, for example: fluorescently labeled polynucleotide in array technique; drop deposition methods; photolithographic array methods; "in-situ" synthesis methods to perform the correlating measurements of the same group of properties.

With respect to claims 2, 21, 32, Minor teaches constructing surrogate values (anchor values/support values) to represent the true values (column 4, line 66 to column 5, line 40 and column 12, lines 19-29).

With respect to claims 7-9, The steps of forwarding, transmitting a result to a remote location and receiving a result from a remote location are inherently discloses (if design) in telecommunication network that mentioned by Minor (column 9, lines 41-62).

Allowable Subject Matter

4. Claims 3-6, 22, 23, 33, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter:

Claims 10-19, 24-30, and 34-37 are indicate allowable over the prior art of record because none of the prior art whether taken singularly or in combination to teach the **claimed combination** as recited through combination steps of creating, combining, fitting, calculating surrogate values s as a function of a summation of the fitted platforms and solving for a function f_j by regressing against s using an appropriate functional form such that f_j , for $j=1$ to n , is a monotonic, non-constant function of s .

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan Bui whose telephone number is 571-272-2271. The examiner can normally be reached on M-Th from 7am-4pm, and Alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BB

4/29/2005

BRYAN BUI
PRIMARY EXAMINER

